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December 11, 1997

Cynthia L. Johnson
Director
Cash Management Policy and Planning Division
Financial Management Service
U.S. Department of the Treasury
Room 420
401 14th Street SW
Washington, D.C. 20227

Re: RIN 1510-AA56
Amendments to 31 CFR Part 208

Dear Ms. Johnson:

Western Union Financial Services Inc. ("Western Union") is pleased to be afforded this opportunity to submit its comments on the proposed amendments to 31 CFR Part 208.

Initially, Western Union would like to commend you and your Treasury Department colleagues. The task of crafting this proposal was a formidable one. During the past year, representatives of Western Union met with Treasury Department officials on several occasions to discuss elements of and issues contained in the current proposal. On October 20, 1997, we testified at the public hearing in New York City. At these meetings and in our testimony, we have presented detailed information concerning Western Union's products and services. Unfortunately, for the reasons described below, we are disappointed in the regulations as currently proposed.

Recognizing that the use of electronic technology such as electronic funds transfer (EFT) offers a number of distinct advantages over paper-based systems like checks, last year Congress enacted the Debt Collection Improvement Act of 1996. Section 31001(x) of this new law requires the use of EFT for virtually all Federal payments (with the noteworthy exception of tax refunds) beginning on January 2, 1999. Thus, unless the regulations to be promulgated by the Department of the Treasury authorize a waiver, all individuals and businesses will soon begin receiving payments from the US Government via EFT. This includes all salary, retirement and allotment payments, payments made to a myriad of vendors and government contractors and

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individual benefit recipients such as Social Security, Supplemental Security Income and veterans' disability and pension payments.

Western Union Serves the Cash-Based Society

As a major financial institution with over 46,000 money transfer or payment instrument agent locations throughout the United States, and over 14,000 locations in over 140 countries overseas, Western Union has an active interest in the implementation of "EFT '99." With a history that dates back to 1851, Western Union today offers consumer money transfer services, money orders and other payment products. We target our services to individuals without traditional banking relationships and expatriates who need to send money to their country of origin -- what we refer to as the "cash-based society" -- as well as traditional bank customers in need of rapid money transfer services or safe and reliable payment instruments.

Consumers sending expatriate remittance funds and individuals without traditional banking relationships are the two largest segments of repetitive money transfer and payment instrument customers. Recently, the Federal Reserve Board estimated that there are 23 million households in the United States that lack any significant banking relationship. In material that accompanied this proposed rulemaking, your agency has determined that more than 10 million (or nearly 20%) of the 54.5 million persons receiving Federal benefits lack any account at a bank or other depository institution. In addition to this "unbanked" population, there is a sizable population of "underbanked" individuals today -- people who maintain monthly bank balances of \$200 or less.

Western Union specializes in providing affordable, safe, reliable and convenient financial services to this sizable market segment. For decades, we have been steadfast in our commitment to this community. Last year alone, Western Union and its affiliates issued or processed over 35 million money transfers and 235 million money orders. We also made 58 million public utility payments on behalf of our customers. We believe that, over time, we have developed and now possess the skills and attributes needed to serve this diverse and demanding customer base. However, most importantly, we understand the needs of the cash-based society. We understand that they don't necessarily want to be "banked." We also understand that bank services often aren't necessarily available to this market segment.

For example, members of the cash-based society often live in rural areas or low- and moderate-income neighborhoods. As a result, there typically is an absence of conveniently located financial institution offices - including ATMs -- near their homes or places of employment. As a result, Western Union has developed an extensive network of agents to provide convenient access to payment products and services near where our customers live and work. These agents include fixtures of the community such as over 11,000 supermarkets (including national and regional chains like Kroger, A&P and Wynn Dixie), 3,000 pharmacies (such as Thrifty/Payless), 3,600 check cashing establishments and private transportation providers like Greyhound. Unlike most of the financial institutions defined in proposed Section 208.2(e), these Western Union agents are often open up to 24 hours a day, 7 days a week. For many of our customers, English is a second language--one in which they may lack proficiency. As a result, many Western Union agents are fluent in the language of their neighborhood. In addition, unlike ATMs that only

dispense twenty dollar bills, at Western Union agent locations customers can receive a cash payout of any amount in precise dollars and cents.

Based upon recent internal focus group studies, we have come to know that many of our customers have made a deliberate choice not to establish relationships with traditional depository institutions. Among reasons frequently cited are: (1) there are no banks located near the area where I live and work, (2) it is too difficult to open a bank account, and (3) I spend my money as soon as I get it, I have no need for a bank account. These attitudes and feelings are strongly held. In some cases, they are based upon a previous negative experience with a depository institution. As a result, many members of the cash-based society are not receptive to the idea of opening and maintaining a traditional bank account. Unfortunately, these realities seem to have been ignored in proposed Section 208.5. Under this section, an individual who lacks an account at a depository institution be provided with access to an account at a “Federally-insured” financial institution selected by the Treasury. This requirement, if implemented, would effectively deny to approximately 10 million Federal benefit recipients the right to choose to deal directly with the financial intermediary of their choice. Moreover, it would inherently confine these individuals to receiving their Federal benefit funds in a less expeditious and more cumbersome manner than at the present time. This result would be contrary to the intent of both the proposed regulations and the Debt Collection Improvement Act of 1996.

Authorized Agent

While we believe that the proposed regulations represent a good faith attempt to craft appropriate exemptions nevertheless, we are convinced that the payment methodologies required under the proposal are not flexible enough to address the convenience and needs of benefit recipients currently lacking an account at a financial institution.

Proposed Section 208.6 provides that all Federal payments made by electronic funds transfer must be deposited into an account at an FDIC-insured depository institution or credit union in the name of the recipient. Aside from certain hardship waivers, the proposed regulations recognize only two exceptions to this requirement: (1) payments to “authorized payment agents” and (2) direct transfers to investment accounts established by registered brokers or dealers. The term “authorized payment agent” is proposed to be defined as “any individual or entity that is appointed or otherwise selected as a representative payee or fiduciary under regulations ... of the agency making the Federal payment, to act on behalf of an individual entitled to a Federal payment.” (Section 208.2(b)). By defining “authorized payment agent” in such a manner, the stated intention is to follow existing Federal agency regulations applicable to “representative payees,” thereby permitting benefits transfers to third parties (other than banks or credit unions) only in circumstances where the benefits recipient suffers from mental or physical infirmities.

In response to this rather narrow application of the authorized agent concept, Western Union respectfully requests that the Treasury Department consider expanding the definition of “authorized payment agent” to include licensed money transmission entities. This would enable benefit recipients to designate Western Union or other similarly situated entities as their authorized agents. In turn, Western Union would establish an omnibus fiduciary account at

an insured depository institution for the benefit of such recipients from which consumer wire money transfers could be made available at any of the 36,000 Western Union agent locations worldwide. Such an arrangement would be subject to Federal consumer protection laws and could be structured so as to make the deposits eligible for coverage under the Federal deposit insurance program. This arrangement would be analogous to the proposed broker/dealer exemption contained in Section 208.6(b), which allows Federal payments to be deposited into an investment account maintained in the broker's or dealer's name. Since, as we suspect, the vast majority of "unbanked" benefits recipients do not possess a brokerage account, this would provide a convenient, safe and far more appropriate alternative for them.

In the notice accompanying the proposed rule, the Treasury Department expressed concern about permitting the direct electronic transfer of Federal benefit payments into an account controlled by a third party. Specifically, questions have been raised about exposing benefit recipients to the potential failure of such third parties to honor their obligations as well as the lack of Federal oversight of such fiduciary arrangements. We believe that these concerns are not well-founded in the case of Western Union as well as many other potential responsible authorized agents.

Regulation and Licensing of Western Union

Western Union and other money transmitters operating on a national scale are particularly well suited to qualify as "authorized payment agents" because of their numerous agent locations and experience in providing services to the cash-based society and the underbanked. Moreover, Western Union is subject to comprehensive regulation and licensing. At the present time, 43 states, the District of Columbia and Puerto Rico have sale of checks or money transmission laws which require entities engaged in the business of transmitting funds by wire or issuing payment instruments to be specially licensed. The licensing process requires the submission of detailed information concerning operations and management as well as other financial information. A number of US jurisdictions also require licensees to maintain highly rated liquid investments in an amount equal to their outstanding payment obligations, and most impose minimum net worth requirements. Money transmission licensees are required to file monthly, quarterly or annual reports with the applicable state banking departments. Reporting requirements include the submission of updated financial statements, revisions to agent lists, sales data and notification of any changes in the business operations. A significant number of US jurisdictions also conduct annual or semi-annual onsite examinations. For example, during the last year, Western Union has been the subject of nine separate state examinations.

Western Union is also subject to regulation on the Federal level under the Bank Secrecy Act and the Money Laundering Control Act of 1986 ("MLCA"). These laws were adopted to combat "money laundering" and applied to depository institutions and Western Union agents as well. The Bank Secrecy Act requires Western Union to maintain certain records, verify the identify of customers and periodically file certain currency transaction reports. The MLCA criminalizes certain transactions, including transfers of funds through money transmitters, that involve funds derived from specified unlawful activities that are performed with the requisite knowledge and intent. In addition, the Money Laundering Suppression Act of 1994 will require Western Union to register with the Treasury Department as a money transmitting business and to

maintain a list of agents. Thus, in this respect, Western Union will be under the jurisdiction of the Treasury Department. In response to these Federal laws, Western Union has developed an extensive bank secrecy act and anti-money laundering compliance program.

As a result, it is clear, we believe, that the direct, active participation of Western Union in EFT '99 does not present any of the policy concerns detailed in the notice of proposed rulemaking with respect to third party or fiduciary accounts. Clearly, and particularly in view of its long-standing service commitment to Federal benefit recipients, Western Union should be accorded parity with securities brokers or dealers.

Similarly, we feel that the proposed regulations have also overlooked other potential financial service providers. In addition to brokers and dealers and licensed money transmitters like Western Union, we believe that additional classes of fiduciary should likewise be eligible for "authorized payment agent" status. For example, law firm escrow accounts and accounts established by trust companies and FDIC-insured depository institutions could also be designated to receive Federal payments on behalf of clients and customers. This would significantly broaden the universe of eligible authorized agents, spur competition and undoubtedly result in more convenience and lower cost to Federal benefits recipients.

Individual Deposit Account Requirement

Western Union strongly believes that by requiring virtually all Federal payments to be deposited into Federally-insured deposit accounts in the name of each individual recipient, the proposed regulations would significantly inhibit competition. As detailed above, there are significant numbers of financial intermediaries and fiduciaries that are fully capable of providing enhanced services to the underbanked and cash-based society. By relegating these service providers to an ancillary role, the proposed regulation would inherently diminish competition and choice.

The Debt Collection Improvement Act of 1996 specifically requires that the Secretary of the Treasury promulgate regulations which insure that individuals that have an account at a Federally-insured depository institution "have access to such account at a reasonable cost." While the law also requires that such accounts "are given the same consumer protections ... as other account holders", it sadly does not mandate that Federal benefit recipients should have access to their accounts at convenient locations in the neighborhoods where they live and work. Even allowing for the rapid development of an as-yet-to-be-proposed debit card-based account, it is unlikely that benefit recipients will have the same ability to receive the full cash payout of their funds at nearby locations as they do today using the services of Western Union.

By inflexibly requiring that the overwhelming majority of Federal payment recipients may only receive EFT payments in an account in their name, the proposed regulations, we believe, will add additional costs. For example, instead of permitting Western Union to establish an omnibus account at a Federally-insured depository institution for the benefit of Federal payees (an account similar to the types used by brokers/dealers for investment accounts), each payee must have a separate account. It is far more efficient and cost-effective to maintain one master account than a multitude of individual transaction accounts. Western Union strongly

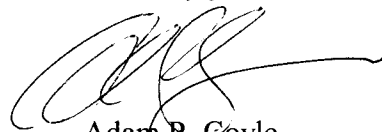
believes that permitting a more flexible account structure would insure partnerships between FDIC-insured banks and non-bank financial services providers, encouraging innovation and competition in the delivery of EFT services that would result in lower costs and better products for the consumer. In this way, banks and non-bank financial services providers could share the costs and regulatory obligations in a manner that would ultimately benefit these consumers.

As stated in the proposal, "[o]ne of Treasury's domestic policy objectives is to encourage individuals who do not have an account at a financial institution to move into the financial services mainstream." Western Union strongly supports this goal. However, we also believe that EFT '99 cannot be viewed in a vacuum. Its implementation must be considered against the backdrop of the unprecedented development of electronic commerce and the application of new financial products services and delivery systems. While we will readily concede that members of the cash-based society are not usually present among the community of early adapters, the new and different ways in which financial services are to be made available will nevertheless ultimately affect them. EFT '99 is merely symptomatic of the profound changes to come. It is, therefore, inadvisable to structure the electronic delivery of Federal payments based solely on the existing infrastructure and delivery system that exists in 1997. What may be "mainstream" today may become a backwater tomorrow. Ideally, the final regulations implementing the Collection Improvement Act of 1996 would be technologically neutral, or at the very least, be flexible enough to accommodate foreseeable changes in the market place.

As a result, we believe the final regulation should be crafted in such a way that will encourage the greatest number of responsible and qualified financial services providers to participate. In so doing, this would not only move the underbanked and cash-based society into the financial services mainstream, but also would stimulate the application of electronic commerce and a development of new financial products and services for all consumers and businesses nationwide.

Western Union sincerely appreciates the opportunity to present its comments on the proposed regulations. We would be pleased to provide additional information to you and your colleagues at the Treasury Department concerning Western Union's ability to bring the benefits of electronic payments to those individual Federal benefit recipients and others who choose to use our financial services.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Adam P. Coyle", with a long horizontal flourish extending to the right.

Adam P. Coyle
Counsel